

October 24, 2003

By: pm

Copies mailed/faxed to counsel of record, pro se
parties
and others listed here:

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF IOWA
CENTRAL DIVISION

JODY M. BARTLESON, individually * No. C02-3008MWB
and all other similarly situated employees, *

Plaintiff, *

v. *

WINNEBAGO INDUSTRIES, INC., *

Defendant. *

* **AMENDED AND SUBSTITUTED
COMPLAINT AND
JURY DEMAND**

COMES NOW the Plaintiff, Jody M. Bartleson, a former employee of Defendant and brings this action, through her attorneys, Sherinian & Walker Law Firm, on behalf of herself and other similarly situated employees of said Defendant, to recover overtime compensation and interest, liquidated damages, attorney fees, and costs under the provisions of 29 U.S.C. § 201 et seq. (the Fair Labor Standards Act of 1938, as amended), hereinafter referred to as the Act.

INTRODUCTION

1. This is an action to redress violations of the Fair Labor Standards Act. Plaintiff is seeking a permanent injunction prohibiting Defendant from engaging in the policies and practices complained of herein in violation of an award of full back pay and benefits, an award of future damages, liquidated damages, fees and expenses; and any and all other benefits of her employment to which she would have been entitled.

EXHIBIT

A

JURISDICTION

2. Jurisdiction of this action is conferred on this Court by Section 16(b) of the Fair Labor Standards Act and by the provisions of 28 U.S.C. § 1337, relating to "any civil action or proceeding arising under any Act of the congress regulating commerce."

3. Further jurisdiction of this Court is invoked pursuant to 28 U.S.C. §1331 and 28 U.S.C. §§1343(3) and (4) in order to secure the relief authorized by and 29 U.S.C. §206, et seq.

4. Further jurisdiction of this Court is invoked pursuant to the Court's Supplemental Jurisdiction under 28 U.S.C. § 1367 for Plaintiffs' claim under Iowa Code Chapter 91A.

5. At all times hereinafter mentioned, Defendant has been an "enterprise engaged in commerce" which has employees handling or otherwise working in goods or materials that have been moved in or produced for commerce by any person and as defined in 42 U.S.C. § 203(s).

PARTIES

5. Plaintiff, Jody M. Bartleson, was at all times relevant hereto a citizen and resident of the United States of America, and at the time of the acts for which she seeks relief, a citizen and resident of Forest City, Winnebago, Iowa. Plaintiff is a female.

6. Defendant, Winnebago Industries, Inc. (hereinafter "Winnebago") is an Iowa Corporation with its principle place of business in Forest City, Winnebago County, Iowa. Defendant's registered agent for process of service is Raymond A. Beebe, 605 W. Crystal Lake Road, Box 152, Forest City, IA 50436.

7. Defendant is an employer within the meaning of Section 3(d) of the Act. Defendant employs or has employed the Plaintiff and other similarly situated employees.

8. The other similarly situated individuals represented by the named Plaintiff are former and current employees of the Defendant.

COUNT I

FAIR LABOR STANDARDS ACT

9. Plaintiff repleads the allegations set forth in paragraphs 1 through 8 above as if fully set forth herein.

10. The Defendant has wrongfully classified Plaintiffs as exempt employees under § 213 of the Act.

11. The Plaintiffs have regularly rendered services to Defendant in an amount exceeding that which is prohibited by federal law, and Defendant has had full knowledge that the Plaintiffs are regularly rendering services in an amount that exceeds that which is prohibited by federal law.

12. Defendant has failed to compensate the Plaintiff and other similarly situated employees for such work in excess of that prohibited by the law at rates not less than one and one-half times their regular rate of pay contained in the provisions of Section 7(a) of the Act and 29 C.F.R. § 778.225.

13. Defendant's failure to compensate Plaintiff, and other similarly situated employees for work in excess of that prohibited by federal law at rates not less than one and one-half times their regular rate of pay is willful.

14. The records concerning the number of excess hours worked by Plaintiffs,

and other similarly situated employees and the compensation they receive, are in the exclusive possession and control of Defendant, and Plaintiffs are unable to state at this time the exact amount owing to each of them.

WHEREFORE, Plaintiff, and other similarly situated employees, pray that judgment be entered herein against Defendants in the amount respectively due each Plaintiff, and other similarly situated employees of Defendants for overtime compensation and interest, liquidated damages, and costs under the provisions of the Fair Labor Standards Act of 1938, as amended, and that this Court also allow reasonable attorney fees be paid by Defendant.

COUNT II

IOWA WAGE PAYMENT COLLECTION ACT

Iowa Code Chapter 91A

15. Plaintiff repleads paragraphs one through fourteen as if fully set forth herein.

16. The overtime compensation owing to Plaintiffs is wages within the meaning of Iowa Code Chapter 91A.

17. Defendant has failed to pay wages in accordance with the provisions of Iowa Code Chapter 91A.

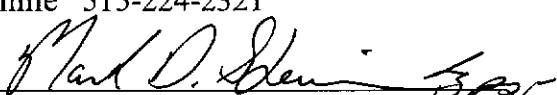
18. Defendant's failure to pay wages to the Plaintiffs was intentional entitling them to liquidated damages as provided in the Iowa Code Chapter 91A.

WHEREFORE, Plaintiff, and other similarly situated employees, pray that judgment be entered herein against Defendant in the amount respectively due each Plaintiff, and other similarly situated employees of Defendant for overtime compensation

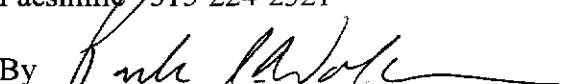
and interest, liquidated damages, and costs under the provisions of the Iowa Wage Payment Collection Act, and that this Court also allow reasonable attorney fees be paid by Defendant.

Respectfully Submitted,

Mark D. Sherinian P.C.
320 Edgewater Building
4200 University Avenue
West Des Moines, Iowa 50266
Telephone 515-224-2079
Facsimile 515-224-2321

By 
MARK D. SHERINIAN

Pamela J. Walker P.C.
320 Edgewater Building
4200 University Avenue
West Des Moines, Iowa 50266
Telephone 515-224-2079
Facsimile 515-224-2321

By 
PAMELA J. WALKER

ATTORNEYS FOR PLAINTIFFS

ORIGINAL FILED.

Copy to:

Gene R. LaSuer
DAVIS, BROWN, KOEHN,
SHORS & ROBERTS, P.C.
666 Walnut Street
2500 Financial Center
Des Moines, IA 50309-3993
ATTORNEY FOR DEFENDANT